

**INTANGIBLE INCOME MODIFICATIONS**

2019 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to payment of income tax on global intangible low-taxed income.

**Highlighted Provisions:**

This bill:

- ▶ adds global intangible low-taxed income to the definition of unadjusted income in the Corporate Franchise and Income Taxes code;
- ▶ creates a subtraction from unadjusted income of corporate taxpayers for a percentage of global intangible low-taxed income that parallels the federal deduction; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

**59-7-101**, as last amended by Laws of Utah 2011, Chapter 69

**59-7-106**, as last amended by Laws of Utah 2017, Chapter 389

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **59-7-101** is amended to read:

**59-7-101. Definitions.**

As used in this chapter:

- (1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105 and 59-7-106.

33 (2) (a) "Affiliated group" means one or more chains of corporations that are connected  
34 through stock ownership with a common parent corporation that meet the following  
35 requirements:

36 (i) at least 80% of the stock of each of the corporations in the group, excluding the  
37 common parent corporation, is owned by one or more of the other corporations in the group;  
38 and

39 (ii) the common parent directly owns at least 80% of the stock of at least one of the  
40 corporations in the group.

41 (b) "Affiliated group" does not include corporations that are qualified to do business  
42 but are not otherwise doing business in this state.

43 (c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which  
44 is limited and preferred as to dividends.

45 (3) "Apportionable income" means adjusted income less nonbusiness income net of  
46 related expenses, to the extent included in adjusted income.

47 (4) "Apportioned income" means apportionable income multiplied by the  
48 apportionment fraction as determined in Section 59-7-311.

49 (5) "Business income" [~~is as~~] means the same as that term is defined in Section  
50 59-7-302.

51 (6) (a) "Captive real estate investment trust" means a real estate investment trust if:

52 (i) the shares or beneficial interests of the real estate investment trust are not regularly  
53 traded on an established securities market; and

54 (ii) more than 50% of the voting power or value of the shares or beneficial interests of  
55 the real estate investment trust are directly, indirectly, or constructively:

56 (A) owned by a controlling entity of the real estate investment trust; or

57 (B) controlled by a controlling entity of the real estate investment trust.

58 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
59 commission may make rules defining "established securities market."

60 (7) (a) "Common ownership" means the direct or indirect control or ownership of more  
61 than 50% of the outstanding voting stock of:

62 (i) a parent-subsiary controlled group as defined in Section 1563, Internal Revenue  
63 Code, except that 50% shall be substituted for 80%;

- 64 (ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue  
65 Code; or
- 66 (iii) three or more corporations each of which is a member of a group of corporations  
67 described in Subsection (2)(a)(i) or (ii), and one of which is:
- 68 (A) a common parent corporation included in a group of corporations described in  
69 Subsection (2)(a)(i); and
- 70 (B) included in a group of corporations described in Subsection (2)(a)(ii).
- 71 (b) Ownership of outstanding voting stock shall be determined by Section 1563,  
72 Internal Revenue Code.
- 73 (8) (a) "Controlling entity of a captive real estate investment trust" means an entity  
74 that:
- 75 (i) is treated as an association taxable as a corporation under the Internal Revenue  
76 Code;
- 77 (ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue  
78 Code; and
- 79 (iii) directly, indirectly, or constructively holds more than 50% of:
- 80 (A) the voting power of a captive real estate investment trust; or
- 81 (B) the value of the shares or beneficial interests of a captive real estate investment  
82 trust.
- 83 (b) "Controlling entity of a captive real estate investment trust" does not include:
- 84 (i) a real estate investment trust, except for a captive real estate investment trust;
- 85 (ii) a qualified real estate investment subsidiary described in Section 856(i), Internal  
86 Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real  
87 estate investment trust; or
- 88 (iii) a foreign real estate investment trust.
- 89 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
90 commission may make rules defining "established securities market."
- 91 (9) "Corporate return" or "return" includes a combined report.
- 92 (10) "Corporation" includes:
- 93 (a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue  
94 Code; and

95 (b) other organizations that are taxed as corporations for federal income tax purposes  
96 under the Internal Revenue Code.

97 (11) "Dividend" means any distribution, including money or other type of property,  
98 made by a corporation to its shareholders out of its earnings or profits accumulated after  
99 December 31, 1930.

100 (12) (a) "Doing business" includes any transaction in the course of its business by a  
101 domestic corporation, or by a foreign corporation qualified to do or doing intrastate business in  
102 this state.

103 (b) Except as provided in Subsection 59-7-102(3), "doing business" includes:

104 (i) the right to do business through incorporation or qualification;

105 (ii) the owning, renting, or leasing of real or personal property within this state; and

106 (iii) the participation in joint ventures, working and operating agreements, the  
107 performance of which takes place in this state.

108 (13) "Domestic corporation" means a corporation that is incorporated or organized  
109 under the laws of this state.

110 (14) (a) "Farmers' cooperative" means an association, corporation, or other  
111 organization that is:

112 (i) (A) an association, corporation, or other organization of[:~~(H)~~] farmers[:;] or [~~(H)~~] fruit  
113 growers; or

114 (B) an association, corporation, or other organization that is similar to an association,  
115 corporation, or organization described in Subsection (14)(a)(i)(A); and

116 (ii) organized and operated on a cooperative basis to:

117 (A) (I) market the products of members of the cooperative or the products of other  
118 producers; and

119 (II) return to the members of the cooperative or other producers the proceeds of sales  
120 less necessary marketing expenses on the basis of the quantity of the products of a member or  
121 producer or the value of the products of a member or producer; or

122 (B) (I) purchase supplies and equipment for the use of members of the cooperative or  
123 other persons; and

124 (II) turn over the supplies and equipment described in Subsection (14)(a)(ii)(B)(I) at  
125 actual costs plus necessary expenses to the members of the cooperative or other persons.

126 (b) (i) Subject to Subsection (14)(b)(ii), for purposes of this Subsection (14), the  
127 commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative  
128 Rulemaking Act, shall define:

129 (A) the terms~~[:(F)]~~ "member"~~[:]~~ and ~~[(H)]~~ "producer"; and

130 (B) what constitutes an association, corporation, or other organization that is similar to  
131 an association, corporation, or organization described in Subsection (14)(a)(i)(A).

132 (ii) The rules made under this Subsection (14)(b) shall be consistent with the filing  
133 requirements under federal law for a farmers' cooperative.

134 (15) "Foreign corporation" means a corporation that is not incorporated or organized  
135 under the laws of this state.

136 (16) (a) "Foreign operating company" means a corporation ~~[if]~~ that:

137 (i) ~~[the corporation]~~ is incorporated in the United States;

138 (ii) conducts at least 80% of the corporation's business activity, as determined under  
139 Section 59-7-401, ~~[is conducted]~~ outside the United States; and

140 (iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income -  
141 Utah UDITPA Provisions, ~~[the corporation]~~ has:

142 (A) at least \$1,000,000 of payroll located outside the United States; and

143 (B) at least \$2,000,000 of property located outside the United States.

144 (b) "Foreign operating company" does not include a corporation that qualifies for the  
145 Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

146 (17) (a) "Foreign real estate investment trust" means:

147 (i) a business entity organized outside the laws of the United States if:

148 (A) at least 75% of the business entity's total asset value at the close of the business  
149 entity's taxable year is represented by:

150 (I) real estate assets, as defined in Section 856(c)(5)(B), Internal Revenue Code;

151 (II) cash or cash equivalents; or

152 (III) one or more securities issued or guaranteed by the United States;

153 (B) the business entity is:

154 (I) not subject to income taxation:

155 (Aa) on amounts distributed to the business entity's beneficial owners; and

156 (Bb) in the jurisdiction in which the business entity is organized; or

- 157 (II) exempt from income taxation on an entity level in the jurisdiction in which the  
158 business entity is organized;
- 159 (C) the business entity distributes at least 85% of the business entity's taxable income,  
160 as computed in the jurisdiction in which the business entity is organized, to the holders of the  
161 business entity's:
- 162 (I) shares or beneficial interests; and  
163 (II) on an annual basis;
- 164 (D) (I) not more than 10% of the following is held directly, indirectly, or constructively  
165 by a single person:
- 166 (Aa) the voting power of the business entity; or  
167 (Bb) the value of the shares or beneficial interests of the business entity; or  
168 (II) the shares of the business entity are regularly traded on an established securities  
169 market; and
- 170 (E) the business entity is organized in a country that has a tax treaty with the United  
171 States; or
- 172 (ii) a listed Australian property trust.
- 173 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
174 commission may make rules defining:
- 175 (i) "cash or cash equivalents";  
176 (ii) "established securities market"; or  
177 (iii) "listed Australian property trust."
- 178 (18) "Income" includes losses.
- 179 (19) "Internal Revenue Code" means Title 26 of the United States Code as effective  
180 during the year in which Utah taxable income is determined.
- 181 (20) "Nonbusiness income" [~~is as~~] means the same as that term is defined in Section  
182 59-7-302.
- 183 (21) "Real estate investment trust" [~~is as~~] means the same as that term is defined in  
184 Section 856, Internal Revenue Code.
- 185 (22) "Related expenses" means:
- 186 (a) expenses directly attributable to nonbusiness income; and  
187 (b) the portion of interest or other expense indirectly attributable to both nonbusiness

188 and business income [~~which~~] that bears the same ratio to the aggregate amount of such interest  
189 or other expense, determined without regard to this Subsection (22), as the average amount of  
190 the asset producing the nonbusiness income bears to the average amount of all assets of the  
191 taxpayer within the taxable year.

192 [~~(24)~~] (23) "S corporation" means an S corporation as defined in Section 1361, Internal  
193 Revenue Code.

194 [~~(23)~~] (24) "Safe harbor lease" means a lease that qualified as a safe harbor lease under  
195 Section 168, Internal Revenue Code.

196 (25) "State of the United States" includes any of the 50 states or the District of  
197 Columbia.

198 (26) (a) "Taxable year" means the calendar year or the fiscal year ending during such  
199 calendar year upon the basis of which the adjusted income is computed.

200 (b) In the case of a return made for a fractional part of a year under this chapter or  
201 under rules prescribed by the commission, "taxable year" includes the period for which such  
202 return is made.

203 (27) "Taxpayer" means any corporation subject to the tax imposed by this chapter.

204 (28) "Threshold level of business activity" means business activity in the United States  
205 equal to or greater than 20% of the corporation's total business activity as determined under  
206 Section 59-7-401.

207 (29) (a) "Unadjusted income" means federal taxable income as determined on a  
208 separate return basis before intercompany eliminations as determined by the Internal Revenue  
209 Code, before the net operating loss deduction and special deductions for dividends received.

210 (b) "Unadjusted income" includes global intangible low-taxed income described in  
211 Section 951A, Internal Revenue Code.

212 (30) (a) "Unitary group" means a group of corporations that:

213 (i) are related through common ownership; and

214 (ii) by a preponderance of the evidence as determined by a court of competent  
215 jurisdiction or the commission, are economically interdependent with one another as  
216 demonstrated by the following factors:

217 (A) centralized management;

218 (B) functional integration; and

- 219 (C) economies of scale.
- 220 (b) "Unitary group" includes a captive real estate investment trust.
- 221 (c) "Unitary group" does not include an S corporation.
- 222 (31) "United States" includes the 50 states and the District of Columbia.
- 223 (32) "Utah net loss" means the current year Utah taxable income before Utah net loss  
224 deduction, if determined to be less than zero.
- 225 (33) "Utah net loss deduction" means the amount of Utah net losses from other taxable  
226 years that may be carried back or carried forward to the current taxable year in accordance with  
227 Section 59-7-110.
- 228 (34) (a) "Utah taxable income" means Utah taxable income before net loss deduction  
229 less Utah net loss deduction.
- 230 (b) "Utah taxable income" includes income from tangible or intangible property located  
231 or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign  
232 commerce.
- 233 (35) "Utah taxable income before net loss deduction" means apportioned income plus  
234 nonbusiness income allocable to Utah net of related expenses.
- 235 (36) (a) "Water's edge combined report" means a report combining the income and  
236 activities of:
- 237 (i) all members of a unitary group that are:
- 238 (A) corporations organized or incorporated in the United States, including those  
239 corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section  
240 936, Internal Revenue Code, in accordance with Subsection (36)(b); and
- 241 (B) corporations organized or incorporated outside of the United States meeting the  
242 threshold level of business activity; and
- 243 (ii) an affiliated group electing to file a water's edge combined report under Subsection  
244 59-7-402(2).
- 245 (b) There is a rebuttable presumption that a corporation which qualifies for the Puerto  
246 Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a  
247 unitary group.
- 248 (37) "Worldwide combined report" means the combination of the income and activities  
249 of all members of a unitary group irrespective of the country in which the corporations are

250 incorporated or conduct business activity.

251 Section 2. Section **59-7-106** is amended to read:

252 **59-7-106. Subtractions from unadjusted income.**

253 (1) In computing adjusted income, the following amounts shall be subtracted from  
254 unadjusted income:

255 (a) the foreign dividend gross-up included in gross income for federal income tax  
256 purposes under Section 78, Internal Revenue Code;

257 (b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the  
258 taxpayer elects to deduct the net capital loss on the return filed under this chapter for the  
259 taxable year for which the net capital loss is incurred;

260 (c) the decrease in salary expense deduction for federal income tax purposes due to  
261 claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

262 (d) the decrease in qualified research and basic research expense deduction for federal  
263 income tax purposes due to claiming the federal credit for increasing research activities under  
264 Section 41, Internal Revenue Code;

265 (e) the decrease in qualified clinical testing expense deduction for federal income tax  
266 purposes due to claiming the federal credit for clinical testing expenses for certain drugs for  
267 rare diseases or conditions under Section 45C, Internal Revenue Code;

268 (f) any decrease in any expense deduction for federal income tax purposes due to  
269 claiming any other federal credit;

270 (g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and  
271 (2)(b);

272 (h) any income on the federal corporation income tax return that has been previously  
273 taxed by Utah;

274 (i) an amount included in federal taxable income that is due to a refund of a tax,  
275 including a franchise tax, an income tax, a corporate stock and business tax, or an occupation  
276 tax:

277 (i) if that tax is imposed for the privilege of:

278 (A) doing business; or

279 (B) exercising a corporate franchise;

280 (ii) if that tax is paid by the corporation to:

- 281 (A) Utah;
- 282 (B) another state of the United States;
- 283 (C) a foreign country;
- 284 (D) a United States possession; or
- 285 (E) the Commonwealth of Puerto Rico; and
- 286 (iii) to the extent that tax was added to unadjusted income under Section 59-7-105;
- 287 (j) a charitable contribution, to the extent the charitable contribution is allowed as a
- 288 subtraction under Section 59-7-109;
- 289 (k) subject to Subsection (3), 50% of a dividend considered to be received or received
- 290 from a subsidiary that:
- 291 (i) is a member of the unitary group;
- 292 (ii) is organized or incorporated outside of the United States; and
- 293 (iii) is not included in a combined report under Section 59-7-402 or 59-7-403;
- 294 (l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a
- 295 foreign operating company;
- 296 (m) the amount of gain or loss that is included in unadjusted income but not recognized
- 297 for federal purposes on stock sold or exchanged by a member of a selling consolidated group as
- 298 defined in Section 338, Internal Revenue Code, if an election has been made in accordance
- 299 with Section 338(h)(10), Internal Revenue Code;
- 300 (n) the amount of gain or loss that is included in unadjusted income but not recognized
- 301 for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance
- 302 with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal
- 303 Revenue Code, has been made for federal purposes;
- 304 (o) subject to Subsection (5), an adjustment to the following due to a difference
- 305 between basis for federal purposes and basis as computed under Section 59-7-107:
- 306 (i) an amortization expense;
- 307 (ii) a depreciation expense;
- 308 (iii) a gain;
- 309 (iv) a loss; or
- 310 (v) an item similar to Subsections (1)(o)(i) through (iv);
- 311 (p) an interest expense that is not deducted on a federal corporation income tax return

312 under Section 265(b) or 291(e), Internal Revenue Code;

313 (q) 100% of dividends received from a subsidiary that is an insurance company if that  
314 subsidiary that is an insurance company is:

315 (i) exempt from this chapter under Subsection 59-7-102(1)(c); and

316 (ii) under common ownership;

317 (r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as  
318 defined in Section 53B-8a-102, the amount of a qualified investment as defined in Section  
319 53B-8a-102.5:

320 (i) that the corporation or a person other than the corporation makes into an account  
321 owned by the corporation during the taxable year;

322 (ii) to the extent that neither the corporation nor the person other than the corporation  
323 described in Subsection (1)(r)(i) deducts the qualified investment on a federal income tax  
324 return; and

325 (iii) to the extent the qualified investment does not exceed the maximum amount of the  
326 qualified investment that may be subtracted from unadjusted income for a taxable year in  
327 accordance with Subsection 53B-8a-106(1);

328 (s) for a corporation that makes a donation, as that term is defined in Section  
329 53B-8a-201, to the Student Prosperity Savings Program created in Section 53B-8a-202, the  
330 amount of the donation to the extent that the corporation did not deduct the donation on a  
331 federal income tax return;

332 (t) for purposes of income included in a combined report under Part 4, Combined  
333 Reporting, the entire amount of the dividends a member of a unitary group receives or is  
334 considered to receive from a captive real estate investment trust; ~~and~~

335 (u) the increase in income for federal income tax purposes due to claiming a:

336 (i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

337 (ii) qualified zone academy bond under Section 1397E, Internal Revenue Code[-]; and

338 (v) subject to Subsection (6), for global intangible low-taxed income described in  
339 Section 951A, Internal Revenue Code, the amount calculated by multiplying:

340 (i) the percentage described in Section 250, Internal Revenue Code, for global  
341 intangible low-taxed income for the applicable taxable year; and

342 (ii) the amount of global intangible low-taxed income:

343 (A) that is included in unadjusted income; and  
344 (B) for which a deduction under Section 250, Internal Revenue Code, has not been  
345 included in unadjusted income.

346 (2) For purposes of Subsection (1)(b):  
347 (a) the subtraction shall be made by claiming the subtraction on a return filed:  
348 (i) under this chapter for the taxable year for which the net capital loss is incurred; and  
349 (ii) by the due date of the return, including extensions; and  
350 (b) a net capital loss for a taxable year shall be:  
351 (i) subtracted for the taxable year for which the net capital loss is incurred; or  
352 (ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue  
353 Code.

354 (3)(a) For purposes of the subtraction described in Subsection (1)(k), global intangible  
355 low-taxed income described in Section 951A, Internal Revenue Code, is not a dividend  
356 considered to be received or received.

357 ~~[(3)-(a)]~~ (b) For purposes of calculating the subtraction ~~[provided for]~~ described in  
358 Subsection (1)(k), a taxpayer shall first subtract from a dividend considered to be received or  
359 received an expense directly attributable to that dividend.

360 ~~[(b)]~~ (c) For purposes of Subsection (3)~~[(a)]~~(b), the amount of an interest expense that  
361 is considered to be directly attributable to a dividend is calculated by multiplying the interest  
362 expense by a fraction:

363 (i) the numerator of which is the taxpayer's average investment in the dividend paying  
364 subsidiaries; and

365 (ii) the denominator of which is the taxpayer's average total investment in assets.

366 ~~[(c)]~~ (d) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in  
367 determining income apportionable to this state, a portion of the factors of a foreign subsidiary  
368 that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the  
369 combined report factors as provided in this Subsection (3)~~[(c)]~~(d).

370 (ii) For purposes of Subsection (3)~~[(c)]~~(d)(i), the portion of the factors of a foreign  
371 subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be  
372 included in the combined report factors is calculated by multiplying each factor of the foreign  
373 subsidiary by a fraction:

- 374 (A) not to exceed 100%; and
- 375 (B) (I) the numerator of which is the amount of the dividend paid by the foreign  
376 subsidiary that is included in adjusted income; and
- 377 (II) the denominator of which is the current year earnings and profits of the foreign  
378 subsidiary as determined under the Internal Revenue Code.
- 379 (4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under  
380 Subsection (1)(l):
- 381 (i) if the taxpayer elects to file a worldwide combined report as provided in Section  
382 59-7-403; or
- 383 (ii) for the following:
- 384 (A) income generated from intangible property; or
- 385 (B) a capital gain, dividend, interest, rent, royalty, or other similar item that is  
386 generated from an asset held for investment and not from a regular business trading activity.
- 387 (b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating  
388 company:
- 389 (i) may not subtract an amount provided for in Subsection (1)(k) or (l); and
- 390 (ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a  
391 transaction that occurs between members of a unitary group.
- 392 (c) For purposes of the subtraction provided for in Subsection (1)(l), in determining  
393 income apportionable to this state, the factors for a foreign operating company shall be  
394 included in the combined report factors in the same percentages as the foreign operating  
395 company's adjusted income is included in the combined adjusted income.
- 396 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
397 commission may by rule define what constitutes:
- 398 (i) income generated from intangible property; or
- 399 (ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is  
400 generated from an asset held for investment and not from a regular business trading activity.
- 401 (5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of  
402 a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax  
403 credit is claimed if:
- 404 (i) there is a reduction in federal basis for a federal tax credit; and

405 (ii) there is no corresponding tax credit allowed in this state.

406 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
407 commission may by rule define what constitutes an item similar to Subsections (1)(o)(i)  
408 through (iv).

409 (6) (a) For purposes of calculating the subtraction allowed under Subsection (1)(v), in  
410 determining income apportionable to this state, a portion of the factors of a foreign subsidiary  
411 that has global intangible low-taxed income that is partially subtracted under Subsection (1)(v)  
412 shall be included in the combined report factors as provided in this Subsection (6).

413 (b) For purposes of Subsection (6)(a), the portion of the factors of a foreign subsidiary  
414 that has global intangible low-taxed income that is partially subtracted under Subsection (1)(v)  
415 that shall be included in the combined report factors is calculated by multiplying each factor of  
416 the foreign subsidiary by a fraction:

417 (i) not to exceed 100%; and

418 (ii) (A) the numerator of which is the amount of the global intangible low-taxed  
419 income paid by the foreign subsidiary that is included in adjusted income; and

420 (B) the denominator of which is the current year earnings and profits of the foreign  
421 subsidiary as determined under the Internal Revenue Code.

422 Section 3. **Effective date.**

423 If approved by two-thirds of all the members elected to each house, this bill takes effect  
424 upon approval by the governor, or the day following the constitutional time limit of Utah  
425 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
426 the date of veto override.

427 Section 4. **Retrospective operation.**

428 This bill has retrospective operation for a taxable year beginning on or after January 1,  
429 2018.